

In the United States District Court  
for the Western District of Texas  
San Antonio Division

Alexander Reyes,  
Plaintiff,

v.

Hanover Texas Insurance  
Management Company, Inc.,  
Defendant.

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Civil Action No.: 5:22-cv-266

**Defendant's Notice of Removal**

Defendant Allmerica Financial Benefit Insurance Company, incorrectly sued in state court as Hanover Texas Insurance Management Company, Inc., hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because this Court may exercise diversity jurisdiction over the parties. In support of this Notice and in compliance with the requirements for removal, Defendant would show the following:

**Factual Background**

1. On February 9, 2022, Plaintiff Alexander Reyes incorrectly sued Hanover Texas Insurance Management Company, Inc. in place of Defendant Allmerica Financial Benefit Insurance Company for recovery of underinsured motorist benefits in Cause No. 2022CI02369 in the 407th District Court of Bexar County, Texas. Plaintiff's Original Petition is attached to this Notice. Defendant Allmerica is the only defendant in this action.

2. Defendant received the citation through service on the Texas Secretary of State on or about February 17, 2022. Accordingly, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely because Allmerica has filed this Notice of Removal within 30 days of

the date it received the initial pleadings and summons, and within one year of the date on which the underlying state court action was commenced.

3. Reyes pleaded in his Original Petition that he seeks monetary relief of over \$1,000,000.00.

### **Grounds for Removal**

4. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every defendant is now, and were at the time the action was commenced, diverse in citizenship from every plaintiff. 28 U.S.C. § 1332(a), 28 U.S.C. § 1441. No defendant is or was at the time this suit was commenced a citizen of the State of Texas.

5. As set forth in his Petition, Plaintiff Alexander Reyes is a resident and citizen of the State of Texas.

6. Defendant Allmerica Financial Benefit Insurance Company is a Michigan corporation incorporated with its headquarters in Massachusetts, and Allmerica is not a citizen of the State of Texas. Plaintiff named Hanover Texas Insurance Management Company, Inc. as the defendant, but Hanover Texas Insurance Management Company is not an active entity in the State of Texas, did not issue the automobile policy at issue in this dispute, and is not the proper defendant to this action.

7. Plaintiff seeks damages from Allmerica for monetary relief of more than \$1,000,000.00. The amount in controversy in this action therefore exceeds the sum of \$75,000.

8. Both parties have filed jury demands in this action.

9. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332 because the plaintiff and defendant are diverse in citizenship, the amount in controversy exceeds \$75,000, and the defendant is not a citizen of Texas.

10. Defendant Allmerica filed its Original Answer in state court on March 11, 2022. It filed its First Amended Answer in state court on March 15, 2022.

### **Removal Venue**

11. Venue is proper in this United States District Court for the Western District of Texas, San Antonio Division, because it is the judicial district and division in which the underlying state court action is pending. 28 U.S.C. § 1441(a).

### **Notice to State Court Regarding Removal**

12. Promptly after the filing of this Notice of Removal, Defendant will give written notice thereof to all adverse parties and will file a copy of the Notice of Removal with the Clerk of the 407th District Court of Bexar County, Texas. 28 U.S.C. § 1446(d).

### **Attachments to Notice of Removal**

13. In compliance with 28 U.S.C. § 1446(a), Defendant has attached true and correct copies of the following documents to this Notice of Removal:

- Civil Cover Sheet
- Copy of State Court Docket Sheet
- Plaintiff's Original Petition
- Citation for Hanover Texas Insurance Management Company, Inc.

- Defendant's Original Answer
- Defendant's First Amended Answer

14. Defendant Allmerica Financial Benefit Insurance Company requests that this Court remove this action to the United States District Court for the Western District of Texas, San Antonio Division based on diversity jurisdiction under 28 U.S.C. §§ 1332, 1441, and 1446, and for such other relief to which Defendant may show itself to be justly entitled.

Respectfully submitted,

**Touchstone, Bernays, Johnston, Beall,  
Smith & Stollenwerck, L.L.P**

/s/ R. Wayne Gordon

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**Attorneys for Defendant  
Allmerica Financial Benefit Insurance  
Company**

### **Certificate of Service**

This is to certify that this Notice of Removal has been served on all counsel of record for the other parties via the Court's electronic filing system and email pursuant to the Federal Rules of Civil Procedure on this 18th day of March 2022.

/s/ R. Wayne Gordon

R. Wayne Gordon